

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ECF Case

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ADRIAN HUFF, as Chairman of the Board of Trustees of
TEAMSTERS LOCAL 445 CONSTRUCTION DIVISION
PENSION FUND,

Civil Action No. 07 Civ. 7083
(CLB)(LMS)

Plaintiff

-against-

DECLARATION OF EDMUND V.
CAPLICKI, JR. ESQ. IN
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

RODAR ENTERPRISES, INC.,

Defendant

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STATE OF NEW YORK)
COUNTY OF DUTCHESS)ss:

EDMUND V. CAPLICKI, JR., an attorney admitted to practice before this Court declares, pursuant to 28 U.S.C. §§ 1746, under penalties of perjury that the following is true and correct:

1. I am a partner with the law firm of The Law Offices of Edmund V. Caplicki, Jr., attorney for Defendant Rodar Enterprises, Inc. I am familiar with the facts and circumstances of this matter and submit this Declaration in Opposition to Plaintiff's Motion for Summary Judgment.

2. Annexed hereto as Exhibit "1" is a copy of page 10 of the Trucking Agreement (Collective Bargaining Agreement – Article XVIII – Welfare and Pension Contributions) between the Local Union No. 445, International Brotherhood of Teamsters and Defendant Rodar Enterprises, Inc.

3. Annexed hereto as Exhibit "2" is a copy of page 20 of the Trucking Agreement (Collective Bargaining Agreement – Article XVIII – Welfare and Pension Contributions)

between the Local Union No. 445, International Brotherhood of Teamsters and Defendant Rodar Enterprises, Inc. signed by Robert Sherwood, President of Defendant, on October 2, 2003.

4. Annexed hereto as Exhibit "3" is a copy of correspondence, dated March 18, 2005 from Teamsters Local 445 to Defendant.

5. Annexed hereto as Exhibit "4" is a copy of Teamsters Local 445 Construction Division Pension Funds Reporting Form from Defendant Rodar Enterprises, Inc. to Teamsters Local 445.

6. Annexed hereto as Exhibit "5" is a copy of ERISA Section 4203 (29 U.S.C. Section 1383) Complete Withdrawal from Multiemployer Plan, and Building and Construction Industry.

7. Annexed hereto as Exhibit "6" is a copy of ERISA Section 4218 (29 U.S.C. 1398) Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.

Dated: Lagrangeville, New York
December 28, 2007

Respectfully submitted,
LAW OFFICES OF EDMUND V. CAPLICKI, JR.

By: /s/Edmund V. Caplicki, Jr.
EDMUND V. CAPLICKI, JR. (6896)
Attorney for Defendant Rodar Enterprises, Inc.
P.O. Box 15
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Lagrangeville, New York 12540
(845) 483-0983

CERTIFICATE OF SERVICE

I hereby certify that I am not a party to this action and am over 18 years of age. I further certify that on December 28, 2007, a copy of Declaration of Edmund V. Caplicki, Jr., Esq. in Opposition to Plaintiff's Motion for Summary Judgment was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt including:

William D. Frumkin
Sapir & Frumkin, LLP
399 Knollwood Road, Suite 310
White Plains, NY 10603

Parties may access this filing through the Court's electronic filing system.

/s/ Cynthia J. Sauter
Cynthia J. Sauter